

EXHIBIT 3

LAW OFFICES

ABER, GOLDLUST, BAKER & OVER

(AN ASSOCIATION OF LAW PRACTICES)

702 KING STREET, SUITE 600

P.O. Box 1675

WILMINGTON, DELAWARE 19899-1675

GARY W. ABER, P.C.

PERRY F. GOLDLUST, P.A.*

DARRELL J. BAKER, P.A.

SUSAN C. OVER, P.C.

SHAUNA T. HAGAN

SAAGAR B. SHAH

(302) 472-4900

TELECOPIER (302) 472-4920

October 30, 2006

*ALSO ADMITTED IN NEW YORK

**ALSO ADMITTED IN PENNSYLVANIA

Eileen Kelly, Esquire
Deputy Attorney General
Department of Justice
Carvel State Building
820 N. French Street
Wilmington, DE 19801

RE: Hamilton v. State Department of Corrections

Dear Eileen:

I received your letter of October 19, 2006, providing me with a "Privilege Log" of those items which you claim are protected by the attorney client privilege. You list three items, which are all emails, of March 27, 2003, June 10, 2003, and October 2, 2003.

In your answer to the complaint, you have pled as an affirmative defense, that your clients are protected by "Qualified Immunity". As the Third Circuit Court of Appeals has recognized, Qualified Immunity is used to protect officials, who may, overstep constitutional boundaries, but are nevertheless acting in objective good faith. Monteiro v. City of Elizabeth, 436 F.3d 397 (3d Cir. 2006). In order to claim protection of the "Qualified Immunity" doctrine, the defendants will have to demonstrate that they acted in reasonable good faith. Grunke v. Seip, 225 F.3d 290 (3d Cir. 2000).

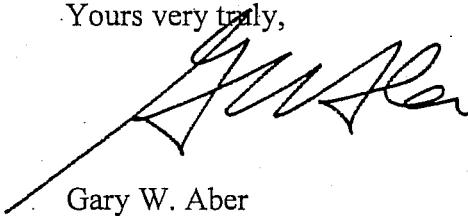
It is well established that when a party asserts "Qualified Immunity" they have waived the attorney client privilege. Hearn v. Rhay, 68 F.R.D. 574, 581 (E.D. Wash. 1975); cited with approval, U.S. v. Blizerian, 926 F.2d 1285 (2d Cir. 1991); In Re: AT & T Access Charge Litigation, ___ F.Supp.2d ___, 2006 WL 2587607 (D.Nj. 2006); Harter v. University of Indianapolis, 5 F.Supp.2d 657 (S.D.Ind. 1998)(By pleading an affirmation defense of good faith qualified immunity, defendants implicitly waive privilege as to legal advice provided by a state's attorney general).

Based upon those arguments, I write to you pursuant to L.R. 7.1.1 and request that you produce documents referred to in your letter of October 19, 2006.

Eileen Kelly, Esquire
October 30, 2006
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Thank you for your assistance and cooperation.

Yours very truly,

A handwritten signature in black ink, appearing to read "GWA", with a long horizontal line extending to the left.

Gary W. Aber

GWA/mac

cc: Mr. Cheikh Ahmed Elohim